



Reprinted
March 30, 2005

ENGROSSED SENATE BILL No. 171

DIGEST OF SB 171 (Updated March 29, 2005 5:30 pm - DI 52)

Citations Affected: IC 5-28; IC 6-1.1; IC 6-3.1; noncode.

Synopsis: Delinquent personal property taxes and tax incentives. Expands the time during the year when the county treasurer may enforce delinquent personal property taxes. Requires a creditor that acquires and transfers personal property on which the creditor holds a lien and on which personal property taxes have been adjudicated delinquent to pay all or part of the delinquency from the proceeds of the transfer according to a formula that apportions the proceeds between the lien amount and the delinquency amount. Allows a creditor to deduct from the proceeds of the transfer any direct costs of the transfer before applying the formula. Allows tangible property owned by a church or religious society that is currently exempt from
(Continued next page)

Effective: January 1, 2000 (retroactive); upon passage; January 1, 2005; July 1, 2005; January 1, 2006.

Lawson C

(HOUSE SPONSORS — FRIEND, KOCH)

January 4, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

February 3, 2005, reported favorably — Do Pass.

February 14, 2005, read second time, amended, ordered engrossed.

February 15, 2005, engrossed; call withdrawn; pursuant to Senate Rule 65(b) reassigned to Committee on Judiciary.

February 24, 2005, amended, reported favorably — Do Pass.

February 28, 2005, reread second time, amended, ordered engrossed.

March 1, 2005, re-engrossed. Read third time, passed. Yeas 38, nays 10.

HOUSE ACTION

March 10, 2005, read first time and referred to Committee on Judiciary.

March 22, 2005, amended, reported — Do Pass.

March 29, 2005, read second time, amended, ordered engrossed.

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property taxes to remain exempt without further application. Amends the definition of investment for purposes of the community revitalization enhancement district tax credit. Establishes the enterprise zone investment deduction, which allows a taxpayer who makes a qualified investment to obtain a deduction against the assessed value of a taxpayer's enterprise zone property located in an enterprise zone. Establishes the enterprise zone personal property deduction, that provides a deduction against the assessed value of the taxpayer's personal property located in an enterprise zone to a maximum of \$250,000. Allows a taxpayer to assign the enterprise zone investment cost credit. Provides that trusts, estates, corporations, and pass through entities that make qualified investments in enterprise zone businesses may claim the enterprise zone investment cost credit. (Current law allows only individuals to claim the credit, except in Vigo County where pass through entities are also eligible.)

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March 30, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 171

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-28-15-3, AS ADDED BY P.L.4-2005, SECTION
2 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2006]: Sec. 3. As used in this chapter, "zone business"
4 means an entity that accesses at least one (1) tax credit, **deduction**, or
5 exemption incentive available under this chapter, IC 6-1.1-20.8, ~~or~~
6 **IC 6-1.1-45, IC 6-1.1-46**, IC 6-3-3-10, **IC 6-3.1-7, or IC 6-3.1-10**.
7 SECTION 2. IC 5-28-15-5, AS ADDED BY P.L.4-2005, SECTION
8 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
9 2005]: Sec. 5. (a) The board has the following powers, in addition to
10 other powers that are contained in this chapter:
11 (1) To review and approve or reject all applicants for enterprise
12 zone designation, according to the criteria for designation that this
13 chapter provides.
14 (2) To waive or modify rules as provided in this chapter.
15 (3) To provide a procedure by which enterprise zones may be
16 monitored and evaluated on an annual basis.
17 (4) To adopt rules for the disqualification of a zone business from

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eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives ~~a credit under an incentive described in section 3 of~~ this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the

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legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 3. IC 5-28-15-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

- (1) the revenue from the registration fee required under section 5 of this chapter; and
- (2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

- (1) pay the expenses of administering the fund;
- (2) pay nonrecurring administrative expenses of the enterprise zone program; ~~and~~
- (3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; **and**
- (4) pay administrative expenses of urban enterprise associations.**

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

SECTION 4. IC 6-1.1-11-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the United States, the state, an agency of this state, or a political subdivision (as defined in IC 36-1-2-13). However, this subsection applies only when the property is used, and in the case of real property occupied, by the owner.

(b) The exemption application referred to in section 3 of this chapter is not required if the exempt property is a cemetery:

(1) described by IC 6-1.1-2-7; or

(2) maintained by a township executive under IC 23-14-68.

(c) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the bureau of motor vehicles commission established under IC 9-15-1.

(d) The exemption application referred to in section 3 of this chapter is not required if:

(1) the exempt property is:

(A) tangible property used for religious purposes described in IC 6-1.1-10-21; or

(B) tangible property owned by a church or religious society used for educational purposes described in IC 6-1.1-10-16; and

(2) the exemption application referred to in section 3 of this chapter was filed properly at least once after the property was designated for a religious use as described in IC 6-1.1-10-21 or an educational use as described in IC 6-1.1-10-16.

However, if title to any of the real property subject to the exemption changes or any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application, this subsection does not apply.

(e) This subsection applies to tangible property owned by a church or religious society that was determined to be exempt from property taxes under an application filed under this chapter for property taxes first due and payable in 2005. Subject to subsection (f), the exemption application referred to in section 3 of this chapter is not required for exemption of the tangible property for taxes first due and payable after 2005.

(f) Subsection (e) does not apply if:

(1) title to any of the tangible property subject to the exemption changes; or

(2) any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application.

SECTION 5. IC 6-1.1-23-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) Annually, after November 10th but ~~prior to before~~ August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. **Annually, after May 10 but before October 31 of the same year, each county treasurer may serve a written demand upon a county resident who is delinquent in the payment of personal property taxes.** The written demand may be served upon the taxpayer:

- (1) by registered or certified mail;
- (2) in person by the county treasurer or the county treasurer's agent; or
- (3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

- (1) a statement that the taxpayer is delinquent in the payment of personal property taxes;
- (2) the amount of the delinquent taxes;
- (3) the penalties due on the delinquent taxes;
- (4) the collection expenses which the taxpayer owes; and
- (5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

(c) Subsections (d) through (g) apply only to personal property that:

(1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

(2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and

(3) has an assessed value of at least three thousand two hundred dollars (\$3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula

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from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

STEP SIX: Multiply the STEP ONE amount by the STEP FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

(1) the name and address of the debtor; and

(2) a specific description of the personal property described in subsection (d);

when requesting a delinquent personal property tax form.

(f) The delinquent personal property tax form must be in a form prescribed by the state board of accounts under IC 5-11, and must require the following information:

(1) The name and address of the debtor as identified by the

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creditor.

(2) A description of the personal property identified by the creditor and now in the creditor's possession.

(3) The assessed value of the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(4) The amount of delinquent personal property taxes owed on the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(5) A statement notifying the creditor that IC 6-1.1-23-1 requires that a creditor, upon the liquidation of personal property for the satisfaction of the creditor's lien, must pay in full the amount of delinquent personal property taxes owed as determined under subsection (d) on the personal property in the amount identified on this form from the proceeds of the liquidation before the proceeds of the liquidation may be applied to the creditor's lien on the personal property.

(g) The county treasurer shall provide the delinquent personal property tax form described in subsection (f) to the creditor not later than fourteen (14) days after the date the creditor requests the delinquent personal property tax form. The county and township assessors shall assist the county treasurer in determining the appropriate assessed value of the personal property and the amount of delinquent personal property taxes owed on the personal property. Assistance provided by the county and township assessors must include providing the county treasurer with relevant personal property forms filed with the assessors and providing the county treasurer with any other assistance necessary to accomplish the purposes of this section.

SECTION 6. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 45. Enterprise Zone Investment Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Base year assessed value" equals the total assessed value of the real and personal property assessed at an enterprise zone location on the assessment date in the calendar year immediately preceding the calendar year in which a taxpayer makes a qualified investment with respect to the enterprise zone location.

Sec. 3. "Corporation" refers to the Indiana economic

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development corporation established by IC 5-28-3-1.

Sec. 4. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 5. "Enterprise zone location" means a lot, parcel, or tract of land located in an enterprise zone.

Sec. 6. "Enterprise zone property" refers to real and tangible personal property that is located within an enterprise zone on an assessment date.

Sec. 7. "Qualified investment" means any of the following expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

- (1) The purchase of a building.
- (2) The purchase of new manufacturing or production equipment.
- (3) The purchase of new computers and related office equipment.
- (4) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements.
- (5) Onsite infrastructure improvements.
- (6) The construction of a new building.
- (7) Costs associated with retooling existing machinery.

Sec. 8. "Zone business" has the meaning set forth in IC 5-28-15-3.

Sec. 9. (a) A taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

- (1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus
- (2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

Sec. 10. (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the

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assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

Sec. 11. (a) The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the determination.

Sec. 12. A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 7. IC 6-1.1-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 46. Enterprise Zone Personal Property Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 3. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 4. "Enterprise zone personal property" refers to tangible personal property that is located within an enterprise zone on the assessment date.

Sec. 5. (a) A taxpayer that meets the conditions of subsection (b) may receive a deduction from the assessed value of the taxpayer's enterprise zone personal property. The amount of the deduction is equal to the lesser of:

- (1) the assessed valuation of the taxpayer's enterprise zone personal property; or
- (2) two hundred fifty thousand dollars (\$250,000).

(b) A taxpayer is entitled to a deduction under this chapter for a particular year if:

- (1) the taxpayer complies with the conditions set forth in this

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chapter; and

(2) the taxpayer's application for a deduction is approved by the fiscal body of the municipality in which the enterprise zone is located.

Sec. 6. (a) A taxpayer that desires to claim the deduction provided by section 5 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

(c) The county auditor shall submit all applications received under this section to the fiscal body of the municipality in which the property for which the deduction is claimed was located on the assessment date. The fiscal body may approve or reject the application according to criteria adopted by the fiscal body.

Sec. 7. (a) The county auditor shall notify the applicant of the fiscal body's determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the fiscal body under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the fiscal body's determination.

SECTION 8. IC 6-3.1-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The department shall annually compile and report to the Indiana economic development corporation the following information:

(1) The number of tax credits claimed under this chapter for taxable years ending in the preceding state fiscal year.

(2) The total amount of the tax credits described in subdivision (1).

(3) For each enterprise zone, the number and amount of tax credits described in subdivision (1) that are attributable to loans made to businesses located in the enterprise zone.

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SECTION 9. IC 6-3.1-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]:
 Sec. 4. ~~(a)~~ As used in this chapter, "taxpayer" means any: ~~individual~~
~~that has any state tax liability.~~

(1) person;

(2) corporation; or

(3) pass through entity;

that has any state tax liability.

(b) Notwithstanding subsection (a), for a credit for a qualified investment in a business located in an enterprise zone in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000), "taxpayer" includes a pass through entity.

SECTION 10. IC 6-3.1-10-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: **Sec. 10. (a) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to another taxpayer. An assignment under this subsection must be in writing. A credit that is assigned under this subsection remains subject to this chapter.**

(b) An assignment under subsection (a) must be reported on the state tax returns of the taxpayer and the assignee for the year in which the assignment is made in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (a) that exceeds the value of the part of the credit assigned.

(c) A taxpayer that assigns a tax credit under this section shall contribute at least fourteen percent (14%) of the proceeds of the assignment to the urban enterprise association established under IC 4-4-6.1 for the enterprise zone in which the taxpayer is located.

(d) After making the contribution required under subsection (c), a taxpayer that assigns a tax credit under this section shall reinvest the remaining proceeds of the assignment in the taxpayer's enterprise zone operations.

SECTION 11. IC 6-3.1-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. As used in this chapter, "qualified investment" means the amount of a taxpayer's expenditures **or investment** that is:

(1) for redevelopment or rehabilitation of property located within a community revitalization enhancement district designated under IC 36-7-13;

(2) made under a plan adopted by an advisory commission on

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1 industrial development under IC 36-7-13; and
2 (3) approved by the ~~department of commerce~~ **Indiana economic**
3 **development corporation** before the expenditure or investment
4 is made.

5 SECTION 12. [EFFECTIVE JANUARY 1, 2006] (a) **IC 6-3.1-10-4,**
6 **as amended by this act, applies to taxable years beginning after**
7 **December 31, 1999.**

8 (b) **IC 6-3.1-10-10, as added by this act, applies to taxable years**
9 **beginning after December 31, 1999.**

10 SECTION 13. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-45 and**
11 **IC 6-1.1-46, both as added by this act, apply to assessment dates**
12 **occurring after February 28, 2006, for property taxes first due and**
13 **payable after December 31, 2006.**

14 SECTION 14. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-23-1, as**
15 **amended by this act, applies only to property taxes first due and**
16 **payable after December 31, 2005.**

17 SECTION 15. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 171 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 171 be amended to read as follows:

Page 2, line 8, delete "For" and insert "**Except as provided in subsection (d), for**".

Page 2, between lines 15 and 16, begin a new paragraph and insert:

"(d) The creditor may deduct from the proceeds of the transfer of the personal property any direct, out-of-pocket expenses that the creditor incurs for the repossession, maintenance, and disposition of the personal property described in this section before paying the delinquent personal property taxes to the county treasurer. In order to deduct these expenses, the creditor must provide documentation supporting the direct, out-of-pocket expenses to the county treasurer with the payment for the delinquent personal property taxes."

(Reference is to SB 171 as printed February 4, 2005.)

LAWSON C

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that, Engrossed Senate Bill 171 which is currently eligible for third reading and was ordered to engrossment on February 14, 2005, has been returned from engrossment and reassigned to the Committee on Judiciary.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 8 through 28, begin a new paragraph, and insert:

"(c) Subsections (d) through (g) apply only to personal property that:

(1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

(2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and

(3) had an original cost of at least three thousand two hundred dollars (\$3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

STEP SIX: Multiply the STEP ONE amount by the STEP

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FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

(1) the name and address of the debtor; and

(2) a specific description of the personal property described in subsection (d);

when requesting a delinquent personal property tax form.

(f) The delinquent personal property tax form must be in a form prescribed by the state board of accounts under IC 5-11, and must require the following information:

(1) The name and address of the debtor as identified by the creditor.

(2) A description of the personal property identified by the creditor and now in the creditor's possession.

(3) The assessed value of the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(4) The amount of delinquent personal property taxes owed on the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(5) A statement notifying the creditor that IC 6-1.1-23-1 requires that a creditor, upon the liquidation of personal property for the satisfaction of the creditor's lien, must pay in full the delinquent personal property taxes owed on the personal property in the amount identified on this form from the proceeds of the liquidation before the proceeds of the liquidation may be applied to the creditor's lien on the personal property.

(g) The county treasurer shall provide the delinquent personal property tax form described in subsection (f) to the creditor not later than fourteen (14) days after the date the creditor requests

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the delinquent personal property tax form. The county and township assessor shall assist the county treasurer in determining the appropriate assessed value of the personal property and the amount of delinquent personal property taxes owed on the personal property. Assistance provided by the county and township treasurer must include providing the county treasurer with relevant personal property forms filed with the assessor and providing the county treasurer with any other assistance necessary to accomplish the purposes of this section.

SECTION 2. [EFFECTIVE JULY 1, 2004] IC 6-1.1-23-1, as amended by this act, applies only to property taxes first due and payable after December 31, 2005."

and when so amended that said bill do pass.

(Reference is to SB 171 as reprinted February 15, 2005.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 171 be amended to read as follows:

Page 3, line 36, after "full the" insert "**amount of**".

Page 3, line 36, after "owed" insert "**as determined under subsection (d)**".

Page 4, line 7, delete "treasurer must" and insert "**assessor must**".

(Reference is to SB 171 as printed February 25, 2005.)

LAWSON C

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 171, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

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"SECTION 1. IC 5-28-15-3, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, **deduction**, or exemption incentive available under this chapter, IC 6-1.1-20.8, or **IC 6-1.1-45, IC 6-1.1-46, IC 6-3-3-10, IC 6-3.1-7, or IC 6-3.1-10.**

SECTION 2. IC 5-28-15-5, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

- (1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.
- (2) To waive or modify rules as provided in this chapter.
- (3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.
- (4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:
 - (A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.
 - (B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.
 - (C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.
- (5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.
- (6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:
 - (A) is in the best interests of the zone; and
 - (B) meets the threshold criteria and factors set forth in section 9 of this chapter.
- (7) To employ staff and contract for services.
- (8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.
- (9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the

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availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives ~~a credit under an incentive described in section 3 of~~ this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 3. IC 5-28-15-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

- (1) the revenue from the registration fee required under section 5 of this chapter; and
- (2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

- (1) pay the expenses of administering the fund;
- (2) pay nonrecurring administrative expenses of the enterprise zone program; ~~and~~
- (3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; ~~and~~

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(4) pay administrative expenses of urban enterprise associations.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses."

Page 4, line 3, delete "assessor" and insert "**assessors**".

Page 4, line 7, delete "assessor" and insert "**assessors**".

Page 4, line 8, delete "assessor" and insert "**assessors**".

Page 4, between lines 10 and 11, begin a new paragraph and insert:
"SECTION 5. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 45. Enterprise Zone Investment Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Base year assessed value" equals the total assessed value of the real and personal property assessed at an enterprise zone location on the assessment date in the calendar year immediately preceding the calendar year in which a taxpayer makes a qualified investment with respect to the enterprise zone location.

Sec. 3. "Corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 4. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 5. "Enterprise zone location" means a lot, parcel, or tract of land located in an enterprise zone.

Sec. 6. "Enterprise zone property" refers to real and tangible personal property that is located within an enterprise zone on an assessment date.

Sec. 7. "Qualified investment" means any of the following

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expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

- (1) The purchase of a building.
- (2) The purchase of new manufacturing or production equipment.
- (3) The purchase of new computers and related office equipment.
- (4) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements.
- (5) Onsite infrastructure improvements.
- (6) The construction of a new building.
- (7) Costs associated with retooling existing machinery.

Sec. 8. "Zone business" has the meaning set forth in IC 5-28-15-3.

Sec. 9. (a) A taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

- (1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus
- (2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

Sec. 10. (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

Sec. 11. (a) The county auditor shall determine the eligibility of

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each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the determination.

Sec. 12. A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 6. IC 6-1.1-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 46. Enterprise Zone Personal Property Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 3. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 4. "Enterprise zone personal property" refers to tangible personal property that is located within an enterprise zone on the assessment date.

Sec. 5. (a) A taxpayer that meets the conditions of subsection (b) may receive a deduction from the assessed value of the taxpayer's enterprise zone personal property. The amount of the deduction is equal to the lesser of:

- (1) the assessed valuation of the taxpayer's enterprise zone personal property; or
- (2) two hundred fifty thousand dollars (\$250,000).

(b) A taxpayer is entitled to a deduction under this chapter for a particular year if:

- (1) the taxpayer complies with the conditions set forth in this chapter; and
- (2) the taxpayer's application for a deduction is approved by the fiscal body of the municipality in which the enterprise zone is located.

Sec. 6. (a) A taxpayer that desires to claim the deduction provided by section 5 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the

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assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

(c) The county auditor shall submit all applications received under this section to the fiscal body of the municipality in which the property for which the deduction is claimed was located on the assessment date. The fiscal body may approve or reject the application according to criteria adopted by the fiscal body.

Sec. 7. (a) The county auditor shall notify the applicant of the fiscal body's determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the fiscal body under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the fiscal body's determination.

SECTION 7. IC 6-3.1-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The department shall annually compile and report to the Indiana economic development corporation the following information:

- (1) The number of tax credits claimed under this chapter for taxable years ending in the preceding state fiscal year.
- (2) The total amount of the tax credits described in subdivision (1).
- (3) For each enterprise zone, the number and amount of tax credits described in subdivision (1) that are attributable to loans made to businesses located in the enterprise zone.

SECTION 8. IC 6-3.1-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 4. (a) As used in this chapter, "taxpayer" means any: ~~individual~~ that has any state tax liability:

- (1) person;
- (2) corporation; or
- (3) pass through entity;

that has any state tax liability.

(b) Notwithstanding subsection (a), for a credit for a qualified

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investment in a business located in an enterprise zone in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); "taxpayer" includes a pass through entity.

SECTION 9. IC 6-3.1-10-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: **Sec. 10. (a) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to another taxpayer. An assignment under this subsection must be in writing. A credit that is assigned under this subsection remains subject to this chapter.**

(b) An assignment under subsection (a) must be reported on the state tax returns of the taxpayer and the assignee for the year in which the assignment is made in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (a) that exceeds the value of the part of the credit assigned.

(c) A taxpayer that assigns a tax credit under this section shall contribute at least fourteen percent (14%) of the proceeds of the assignment to the urban enterprise association established under IC 4-4-6.1 for the enterprise zone in which the taxpayer is located.

(d) After making the contribution required under subsection (c), a taxpayer that assigns a tax credit under this section shall reinvest the remaining proceeds of the assignment in the taxpayer's enterprise zone operations.

SECTION 10. [EFFECTIVE JANUARY 1, 2006] **(a) IC 6-3.1-10-4, as amended by this act, applies to taxable years beginning after December 31, 1999.**

(b) IC 6-3.1-10-10, as added by this act, applies to taxable years beginning after December 31, 1999.

SECTION 11. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-45 and IC 6-1.1-46, both as added by this act, apply to assessment dates occurring after February 28, 2006, for property taxes first due and payable after December 31, 2006."**

Page 4, line 11, delete "JULY 1, 2004]" and insert "JANUARY 1, 2006]".

Page 4, after line 13, begin a new paragraph and insert:

"SECTION 13. An emergency is declared for this act."

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 171 as reprinted March 1, 2005.)

FOLEY, Chair

Committee Vote: yeas 11, nays 1.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 171 be amended to read as follows:

Page 4, line 2, strike "prior to" and insert "**before**".

Page 4, line 4, after "." insert "**Annually, after May 10 but before October 31 of the same year, each county treasurer may serve a written demand upon a county resident who is delinquent in the payment of personal property taxes.**".

Page 4, line 32, delete "had an original cost" and insert "**has an assessed value**".

(Reference is to ESB 171 as printed March 23, 2005.)

FRIEND

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 171 be amended to read as follows:

Page 10, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 11. IC 6-3.1-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. As used in this chapter, "qualified investment" means the amount of a taxpayer's expenditures **or investment** that is:

- (1) for redevelopment or rehabilitation of property located within a community revitalization enhancement district designated under IC 36-7-13;
- (2) made under a plan adopted by an advisory commission on industrial development under IC 36--13; and
- (3) approved by the ~~department of commerce~~ **Indiana economic development corporation** before the expenditure **or investment**

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is made."

Renumber all SECTIONS consecutively.

(Reference is to ESB 171 March 23, 2005.)

HINKLE

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 171 be amended to read as follows:

Page 3, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 4. IC 6-1.1-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the United States, the state, an agency of this state, or a political subdivision (as defined in IC 36-1-2-13). However, this subsection applies only when the property is used, and in the case of real property occupied, by the owner.

(b) The exemption application referred to in section 3 of this chapter is not required if the exempt property is a cemetery:

- (1) described by IC 6-1.1-2-7; or
- (2) maintained by a township executive under IC 23-14-68.

(c) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the bureau of motor vehicles commission established under IC 9-15-1.

(d) The exemption application referred to in section 3 of this chapter is not required if:

- (1) the exempt property is:
 - (A) tangible property used for religious purposes described in IC 6-1.1-10-21; or
 - (B) tangible property owned by a church or religious society used for educational purposes described in IC 6-1.1-10-16; and
- (2) the exemption application referred to in section 3 of this chapter was filed properly at least once after the property was designated for a religious use as described in IC 6-1.1-10-21 or an educational use as described in IC 6-1.1-10-16.

However, if title to any of the real property subject to the exemption changes or any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application, this subsection does not apply.

(e) This subsection applies to tangible property owned by a

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church or religious society that was determined to be exempt from property taxes under an application filed under this chapter for property taxes first due and payable in 2005. Subject to subsection (f), the exemption application referred to in section 3 of this chapter is not required for exemption of the tangible property for taxes first due and payable after 2005.

(f) Subsection (e) does not apply if:

- (1) title to any of the tangible property subject to the exemption changes; or
- (2) any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application."

Renumber all SECTIONS consecutively.

(Reference is to ESB 171 as printed March 23, 2005.)

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